

Message Text

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ACTION EUR-12

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FM AMEMBASSY BERN
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USMISSION GENEVA

UNCLAS BERN 3522

EO 11652: N/A
TAGS: EFIN, AG, SZ
SUBJ: ALGERIAN FLN FUNDS IN SWITZERLAND

REF: BERN 3397 (NOTAL)

1. SUMMARY: SEVERAL SWISS NEWSPAPERS HAVE
PUBLISHED BACKGROUND INFORMATION ON DISPUTE BETWEEN
ALGERIAN GOVT AND BANQUE COMMERCIALE ARAB (BCA),
GENEVA, CONCERNING ALGERIAN NATIONAL LIBERATION
FRONT (FLN) FUNDS DEPOSITED BY MOHAMMED KHIDER WITH
BCA IN 1962. DISPUTE HAS STRAINED RELATIONS BETWEEN
SWITZERLAND AND ALGERIA. LATEST PRESS REPORT DIS-
CLOSED THAT ALGERIAN GOVT, BY IRONIC TURN OF EVENTS,
MAY BECOME MAJORITY SHAREHOLDER OF BCA, BECAUSE
KHIDER ALLEGEDLY ALSO BOUGHT BCA SHARES USING FLN
FUNDS. HOWEVER, WHOLE COMPLEX OF CONFLICTING LEGAL
CLAIMS IS EXPECTED TO OCCUPY SWISS COURTS FOR
CONSIDERABLE TIME. END SUMMARY.

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2. SWISS PRESS HAS RECALLED THAT IN 1962,
MOHAMMED KHIDER, THEN SECRETARY GENERAL AND
TREASURER OF ALGERIAN FLN, OPENED AN ACCOUNT AT
BCA IN HIS OWN NAME TO DEPOSIT FUNDS HE HAD
COLLECTED ON BEHALF OF FLN FROM ARAB WORKERS IN
EUROPE AND ARAB GOVERNMENTS TO SUPPORT FLN ACTIVITIES.
TOTAL AMOUNT INVOLVED WAS REPORTEDLY OVER SF 40

MILLION. KHIDER BROKE WITH ALGERIAN GOVT UNDER BEN BELLA IN 1964. ALGERIA HAS SOUGHT SINCE THAT TIME TO RECOVER FUNDS FROM BCA. IN 1964 ALGERIA FILED CRIMINAL COMPLAINT AGAINST KHIDER IN SWISS COURTS WITHOUT SUCCESS. KHIDER WAS ASSASSINATED IN 1967, LEAVING HEIRS WHO CLAIMED THE FUNDS IN BCA. GENEVA COURT TOOK UP ALGERIAN COMPLAIN AGAINST BCA IN 1971 AND HANDED DOWN DECISION IN FAVOR OF ALGERIA IN 1973, ORDERING BCA TO PAY SF 40 MILLION. HOWEVER, SWISS FEDERAL APPEALS COURT REVERSED THAT DECISION JULY 1, 1974, STATING THAT ALGERIAN CLAIM WAS WITHOUT BASIS AND THAT FUNDS IN BCA BELONGED LEGALLY TO KHIDER. 1974 DECISION ALSO ORDERED ALGERIA TO PAY COURT COSTS OF SF 520,000 WHICH GENEVA CLAIMS COURT IS NOW ATTEMPTING TO ENFORCE ON BEHALF OF BCA.

3. FOLLOWING 1974 DECISION, ALGERIAN GOVT ASKED SWISS FEDERAL POLITICAL DEPT (FOREIGN MINISTRY) TO INTERCEDE WITH OURT ON ITS BEHALF. HOWEVER, SWISS GOVT REFUSED TO INTERVENE, ARGUING THAT SEPARATION OF POWERS PRECLUDED CONFEDERATION FROM MEDDLING IN JUDICIAL AFFAIRS. ALGERIAN GOVT THEN RECALLED ITS AMB FROM BERN IN PROTEST.

4. JOURNAL DE GENEVA REPORTED JULY 29 THAT FRENCH UNCLASSIFIED

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NEWSPAPER LE MONDE CORRESPONDENT IN ALGERIA RECENTLY DISCOVERED THAT IN 1963 KHIDER PURCHASED 20,000 BCA SHARES AT SF 500 EACH, ABOUT TWO-THIRDS OF BCA CAPITAL, THROUGH INTERMEDIARY OF ZOUHEIR MARDAM (SYRIAN), WHO FOUNDED BCA WITH FRANCOIS GENOUD (SWISS). JOURNAL ALSO REPORTED THAT GENOUD FILED LAWSUIT AGAINST MARDAM SOME TIME AGO, ALLEGING THAT FOLLOWING KHIDER'S DEATH, MARDAM MISAPPROPRIATED KHIDER'S BCA SHARES FOR HIS OWN USE TO GAIN FULL CONTROL OF THE BANK. GEoud CLAIMED MARDAM THEN REPLACED HALF OF KHIDER'S SHARES WITH DIVIDENT-RIGHT CERTIFICATES THAT LACK VOTING RIGHTS. MARDAM ALLEGEDLY USED POWER-OF-ATTORNEY THAT SHOULD HAVE EXPIRED UPON KHIDER'S DEATH.

5. JOURNAL ARTICLE STATED THAT GENEVA APPEALS COURT MAY 6, 1977 HELD THAT MARDAM HAD VIOLATED LAW AND ORDERED BCA TO RESTORE LEGAL RIGHTS TO KHIDER'S "SUCCESSORS." COURT DECREE ALSO CANCELLED RESULTS OF BCA GENERAL SHAREHOLDERS MEETING WHICH DID NOT RE-ELECT GENOUD TO BCA BOARD OF DIRECTORS AND HAD EXCLUDED REPS OF ALGERIA AND MRS KHIDER FROM ATTENDING MEETING. COURT ORDERED BCA TO PAY COURT COSTS

AND SF 10,000 FINE. JOURNAL REPORTD THAT MARDAM HAS APPEALED THAT DECISION WITH FEDERAL COURT, AND THAT ALGERIA HAS FILED SUIT AGAINST BCA TO OBTAIN ITS RIGHTS TO BCA SHARES THROUGH KHIDER.

6. TO SUMMARIZE, THERE APPEAR TO BE THREE DISPUTES. FIRST, DISPUTE OVER FUNDS DEPOSITED IN BCA BY KHIDER, WITH ALGERIA OPPOSING BCA AND KHIDER'S HEIRS, IN WHICH CASE FEDERAL COURT DECIDED AGAINST ALGERIA. SECOND, OWNERSHIP OF BCA SHARES, WHICH FINDS MARDAM AND BCA OPPOSED BY GENOUD, MRS KHIDER AND ALGERIA, IN WHICH CASE COURT HELD AGAINST MARDAM AND BCA. THIRD, SUCCESSION TO KHIDER'S RIGHTS TO BANK STOCK, I.E., IN FAVOR OF KHIDER'S HEIRS OR IN UNCLASSIFIED

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FAVOR OF ALGERIA, THAT REMAINS UNRESOLVED. JOURNAL STATED MRS KHIDER MADE DEPOSITION OCT 7, 1974 THAT HER HUSBAND HAD BOUGHT BCA SHARES ON BEHALF OF FLN. HOWEVER, JOURNAL ALSO REPORTED THAT MRS KHIDER JULY 11, 1976 FILED SUIT AGAINST MARDAM ALLEGING FRAUD REGARDING BCA SHARES, BUT THAT CASE IS STILL PENDING PRELIMINARY REPORT OF INVESTIGATING MAGISTRATE. THESE LEGAL ISSUES ARE EXPECTED TO TAKE CONSIDERABLE TIME TO RESOLVE.

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